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P 271404Z MAY 09 ZDK
FM AMEMBASSY ABUJA
TO RUEHC/SECSTATE WASHDC PRIORITY 6107
INFO RUEHOS/AMCONSUL LAGOS PRIORITY 1383
RUEHZK/ECOWAS COLLECTIVE
RUEHGB/AMEMBASSY BAGHDAD 0318
RUEATRS/DEPT OF TREASURY WASHDC
RUCPDO/DEPT OF COMMERCE WASHDC
RHEBAAA/DEPT OF ENERGY WASHDC

UNCLAS ABUJA 000917

SIPDIS

DEPT PASS TO OPIC-ERB AND USTR-AGAMA
DEPT PASS USAID/AFR FOR DATWOOD AND USAID/EGAT FOR MOTT
BAGHDAD FOR DUNDAS MCCULLOUGH
TREASURY FOR PETERS, IERONIMO, AND HALL
DOC FOR 3317/ITA/OA/KBURRESS AND
3130/USFC/OIO/ANESA/MCREED
DOE FOR GPERSON

E.O. 12958: N/A

TAGS: [ECON](#) [EINV](#) [ETRD](#) [PGOV](#) [NI](#)

SUBJECT: NIGERIA: LAND USE ACT TO BE AMENDED

REF: A. 07 ABUJA 1344

[1](#)B. 06 ABUJA 3172

[1](#)1. Summary. The Land Use Act (LUA) vests all land rights with the 36 state governors requiring that all transfers or land sales be approved by the governors. The LUA makes it difficult for potential investors, homeowners, etc to secure title, which impedes the use of property as effective collateral for commercial transactions. In late February, President Yar'Adua sent to the National Assembly (NA) a bill seeking an amendment to the LUA to limit the requirement for the Governor's consent to assignments only. The proposed amendment sets the foundation for the land reforms proposed in his Seven-Point Agenda. The proposed amendment can only be passed through a constitutional amendment because the land use act is embedded in the 1999 Constitution, thus requiring concurrence by two-thirds of the 36 state legislatures in addition to the federal legislature. This will pose a major challenge to passing the amendment, but mortgage industry operators are optimistic the amendment will be passed. They also contend that if foreclosure and securitization legislations are also passed, Nigeria's mortgage sector will experience a boom. End Summary.

[1](#)2. In February 2009, President Yar'adua sent a proposed amendment to the NA regarding the LUA. The proposed amendment will restrict the requirement for the Governor's consent to assignments only. Thus Governor's consent won't be required for creating mortgages and foreclosing on mortgaged property.

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LUA Primer

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[1](#)3. The Land Use Act was enacted in 1978 and vests ownership of all land within the territory of a state in the federation on the governor of the state. Under the Act all forms of ownership or title to land both under common law and customary law were abolished, and the LUA confers a possessor occupier status to a holder of right of occupancy on either land in rural or urban areas. Thus the holder of a right of occupancy cannot pass a legal title to any other person because title to all lands vests with each state governor.

[1](#)4. The LUA also requires that a governor's consent is mandatory while entering into a mortgage agreement by a holder of a right of occupancy. Also an individual or institution, such as a bank, that is holding a mortgage through a certificate of occupancy cannot foreclose on the mortgaged property or sell it without the consent and approval of the State Governor. The stringent requirements of the act obstruct the development of a virile mortgage sector in

Nigeria.

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Operators Express Hope

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[15](#). Hassan Usman, President of the Mortgage Banking Association of Nigeria (MBAN) and Chief Executive of Aso Savings and Loans, expressed optimism to Econ Specialists on May 5 that the proposed law will be enacted despite the cumbersome process required to amend the constitution. He stated that though the amendment might not be passed in 2009, it could be passed next year. The proposed amendment was a welcome development and MBAN is hopeful that it could lead to phenomenal growth in the mortgage sector. In addition, securitization and foreclosure laws should also be passed to encourage the mortgage sector.

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Comment

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[16](#). This law could restrict the requirement for the Governor's consent to assignments only and will greatly encourage housing production and provision of mortgages, thereby increasing home ownership for the middle class. That said, no/no economic reform legislation of national scope has been enacted during the first two years of the Yar'adua administration and the current NA -- much less reforms requiring amendment of the constitution. End comment.

[17](#). This cable was coordinated with Consulate Lagos.

SANDERS